

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

**IN AND FOR NEW CASTLE COUNTY**

\*, )  
 )  
 **Plaintiff(s),** )  
 ) **C. A. No. N1\* FWW**  
 v. )  
 )  
 \*, )  
 )  
 **Defendant(s).** )

**TRIAL SCHEDULING ORDER**

After conducting a scheduling conference with counsel on \_\_\*, the Court enters the following Order:

1. **Trial** – A jury trial in this matter is hereby scheduled to commence on \_\_\_\_\_, beginning at 9:30 a.m. The Court has set aside \_\_\_\_\_ to try this matter.

2. All Motions to Add or Amend must be filed by \_\_\_\_\_.

3. **Discovery**

Plaintiff’s Expert Report (or Rule 26(b)(4) Disclosure) shall be provided to Defendant by \_\_\_\_\_.

Defendant’s Expert Report (or Rule 26(b)(4) Disclosure) must be provided to Plaintiff by \_\_\_\_\_.

Plaintiff’s Expert Rebuttal Report (or Rule 26(b)(4) Disclosure) must be provided by \_\_\_\_\_.

All discovery is to be completed by \_\_\_\_\_.

4. **ADR** is to be conducted by \_\_\_\_\_. The parties should notify the Court in writing of the date of the scheduled ADR. **IF ADR does not occur by the date set by the Court, Plaintiff’s counsel shall advise the Court in writing within three (3) days why the proceeding did not go forward.**

5. **All Dispositive Motions and Motions *in Limine*, including *Daubert* motions,** must be filed by \_\_\_\_\_. The original motion and the response are filed with the Prothonotary's Office and two (2) copies delivered to my chambers. All motions should be noticed "**At the Convenience of the Court.**" The Civil Case Manager will issue a letter via LexisNexis e-file, informing counsel of the response deadline. Neither the motion nor the response shall exceed six (6) pages in length. No reply by the moving party is permitted.

6. An **Interim Status Report** is to be filed with the Court by Plaintiff's counsel by \_\_\_\_\_, along with a check for the \$150.00 trial fee, made payable to the Prothonotary. The interim report will advise the Court on the nature of the matters in issue, the progress of discovery to date, and the results of any attempts made or alternate dispute resolution and used to date to resolve this matter. The parties should not include information on the amounts of any offers or demands. This document should reflect input from both parties, and Plaintiff's counsel is responsible for obtaining defense counsel's consent as to form or obtain defense counsel's input in sufficient advance of the submission deadline to ensure compliance with the deadline.

7. **Routine Civil Motions** – Routine motions should be noticed for any Monday at 9:00 a.m. Motions must be filed ten (10) days prior to the noticed date for presentation. Responses are due no later than four (4) days prior to the presentation date. A Motion to Continue a Trial Date should be filed as a routine motion.

8. **Pretrial Stipulation and Pretrial Order** – A Rule 16(b) Pretrial Conference will be held on \_\_\_\_\_, at \_\_\_\_\_ **a.m.** in chambers. Trial Counsel must attend the pretrial conference. At least 15 days before that conference, Plaintiff's counsel shall forward a draft of the pretrial stipulation to Defendant's counsel with the information Plaintiff proposes to include in that stipulation. Within five (5) days from the date of receiving that draft, Defendant's counsel shall provide Plaintiff's counsel with comments on the plaintiff's draft and the information the defendant's counsel proposes to include in the stipulation. The proposed stipulation shall, at a minimum, cover the matters set forth in Form 46 (pretrial stipulations) contained in the appendix of Superior Court Civil Rules. The completed pretrial stipulation must be received by the Court on or before \_\_\_\_\_. Failure to comply with this deadline may result in sanctions being imposed upon the responsible party or parties.

9. **Special *voir dire* questions** – All proposed special *voir dire* questions shall be submitted to the Court on or before **(Submitted with pretrial stipulation.)**.

10. **Jury Instructions** – Counsel shall consult among themselves and attempt to agree upon appropriate jury instructions. On or before the established trial date, counsel shall provide to the Court an agreed upon set of instructions. If there are areas of disagreement, counsel shall present their respective proposed instructions and supporting authority. This order shall not prevent the parties from submitting additional proposed instructions that may be justified by the evidence presented at trial. Jury instructions shall be submitted to the Court on or before **(Submitted with pretrial stipulation.)**.

11. **Final Office Conference** – Counsel and *pro se* parties shall attend an office conference to be held on (Day of trial) at 9:30 a.m. **Counsel and *pro se* parties are excused from attending** if the Court is advised, prior to that date and time, that the following has occurred:

- a. all exhibits have been exchanged or reviewed by the parties or counsel, and there are no objections to any exhibit;
- b. proposed jury instructions have been exchanged, there are no exceptions, and a copy is attached to the letter notifying the Court of the status;
- c. any request for special *voir dire* has been reviewed by the opposing party and there are no exceptions or objections, and a copy of the requested, special *voir dire* is attached to the letter notifying the Court of the status; and
- d. the parties and counsel agree there are no remaining legal issues for the Court to resolve that would affect the trial date.

Either Plaintiff or Defendant may make the required notification to the Court, but there should be one, comprehensive submission.

12. **Deadlines established in this Order are firm. All of the deadlines established by this Trial Scheduling Order are firm deadlines. Failure to meet these deadlines**, absent good cause shown, likely will result in the Court refusing to allow extensions regardless of the consequences. Amendments to this Trial Scheduling Order must be by Order of the Court on appropriate motion or stipulation of the parties.

13. **Settlement Negotiations** – The parties are required to engage in settlement discussions and determine whether the matter may be resolved by settlement, mediation, or arbitration.

/s/Ferris W. Wharton  
Judge

oc: Prothonotary  
e-file: Counsel of Record